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Applicant : Rakesh Anand et al.

Art Unit : 1634

Serial No. : 09/869,066

Examiner : Carla J. Myers

Filed : August 24, 2001

Title : SINGLE NUCLEOTIDE POLYMORPHISM IN A PYRUVATE
DEHYDROGENASE KINASE ISOENZYME 2 (PDK2) IN HUMANS

Commissioner for Patents
Washington, D.C. 20231

RESPONSE TO RESTRICTION REQUIREMENT

Responsive to the action mailed July 26, 2002, please amend the application as follows.

In the claims:

Please add claim 13.

--13. The method of claim 1, wherein the sequence is determined at all of the following nucleotide positions: 288, 1281, and 1357, as defined by the positions in EMBL Accession No. L42451.--

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, Washington, D.C. 20231.

December 22, 2002
Date of Deposit

Lenora H. Francis
Signature

LENORA H. FRANCIS
Typed or Printed Name of Person Signing Certificate

REMARKS

Claims 1-13 are now pending in the application, new claim 13 having been added by the above amendment. Support for this claim can be found in claim 1 as originally filed, as well as on page 4, lines 23-26. No new matter has been added.

Applicants elect the invention of Group I, drawn to nucleic acids and methods of detecting a polymorphism at position 288 of the PDK2 gene according to the position in EMBL Accession No. L42451. This election, however, is made with traverse.

Applicants point out that claim 1 covers determining the sequence "at one or more" of the three nucleotide positions of the PDK2 gene. If the restriction requirement restricting the three polymorphisms into three separate groups is allowed to stand, it will limit applicants to claiming a method of determining the sequence at only a single one of the three positions. The restriction requirement ignores those embodiments of the claims in which the sequence at two or three of the positions is determined. It essentially prohibits applicants from presenting claims limited to such embodiments in this application or any divisional. An example of such a claim is submitted as a new claim 13 above. As this claim is dependent on claim 1, it must be included in the elected group. However, it clearly will require examination of all three polymorphisms. Applicants fail to see how the restriction requirement, as presently formulated, can stand in view of new claim 13.

Applicants strongly protest and request withdrawal of the restriction requirement, at least with respect to restricting among the three polymorphisms.

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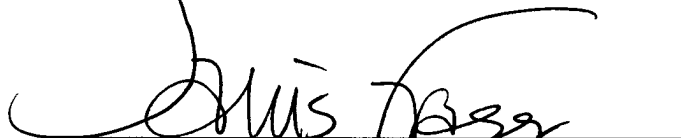
Attorney's Docket No.:
06275-281001 / AFG/SAD/Z70442/UST

Enclosed is a Petition for Extension of Time for four months and a check for the required fee of \$1440. Please apply any other charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date:

Dec. 20, 2002



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